IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 10986 of 2004

Between:

Smt. M. Vanaja Devi, W/o Raja Prasad Reddy, R/o H.No. 4-5-614,
Esamia Bazar, Pochamma Gally, Hyderabad-27.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, rep. by its
Commissioner, Tank Bund, Hyderabad.
2 The City Planner, Municipal Corporation of Hyderabad,
Town Planning Section, Abids Parking Complex, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in proposing to demolish the house bearing No. 5-1-195, Putli Bowli, Hyderabad, without following due process of law as contemplated U/s 147 of Hyderabad Municipal Corporation Act and not initiating Land Acquisition Proceedings, arbitrary, illegal and violates of Article-14, 19, 21 & 300A of the Constitution of India and consequently direct the Respondents not to demolish the property.

For the Petitioner: MR.K.GOVIND, Advocate

For the Respondents: MR.RAMA RAO GANTA, SC for MCH

The Court at the admission stage made the following :

ORDER:

By this writ petition the petitioner seeks to challenge the action of the respondents in proposing to demolish her house bearing No.5-1-915, situated at Putli Bowli, Hyderabad, as illegal and arbitrary.

The petitioner claims to be owner of the property in question. It is alleged that the officials of the respondents marked about 47.64 square yards portion of the property for the purpose of demolition of structures therein in connection with road widening. The petitioner complains that the said portion of the property is not acquired as per the provisions of Land Acquisition Act nor is there any notice issued indicating its acquisition. Questioning the impugned action of the respondents, the present writ petition is filed.

Heard the learned counsel for the petitioner. Even though time was granted, the learned Standing Counsel is unable to obtain instructions.

It is well settled by a catena of decisions of this Court that the property of citizens for widening of roads can only be acquired by following the procedure contemplated under the provisions of the A.P. Municipalities Act (for short 'the Act'). If the owners are not willing to give consent for such acquisition, it is open to the Municipality to proceed under the provisions of the Act by initiating proceedings under the Land Acquisition Act, 1894 and can take possession of the property by paying the market value of such property.

In view of the same, and having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition in the following terms.

If the property in question has already been acquired either by negotiation or by paying compensation as per the procedure contemplated under law, for the purpose of road widening, the respondents are at liberty to demolish the structures in the property and take possession thereof. If no acquisition proceedings in respect

thereof are initiated in accordance with the procedure contemplated under law, the respondents shall not demolish the structures in the property, without acquiring the property under due process of law and without giving notice thereof to the petitioner. Till such acquisition of the property as per the procedure contemplated under law, status-quo existing as on today with respect to possession of the property shall be maintained by the parties. No costs.

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N.V. RAMANA, J

Date: 08-07-2004

Svv

To

1 The Commissioner, Municipal Corporation of Hyderabad,
Tank Bund, Hyderabad.
2 The City Planner, Municipal Corporation of Hyderabad,
Town Planning Section, Abids Parking Complex, Hyderabad.

3 Two CD copies.